

IT IS ORDERED

Date Entered on Docket: November 30, 2021



**The Honorable Robert H Jacobvitz
United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO**

In Re:

Jeanetta Faye Sturgeon,

Debtor.

Case No. 21-11107-j7

Chapter: 7

**DEFAULT ORDER GRANTING MOTION FOR RELIEF FROM STAY AND TO
ABANDON REAL PROPERTY KNOWN AS 75599 HIGHWAY 16, WAGONER,
OKLAHOMA 74467**

This matter came before the Court on the Motion for Relief from Automatic Stay and to Abandon real Property filed on November 3, 2021, Docket No. 12 (the "Motion") by The Money Source Inc., its successors and/or assigns ("Movant"). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

1. On November 3, 2021, Movant served the Motion and a Notice of the Motion (the "Notice") on the case Trustee, Philip J. Montoya ("Trustee"), and on Debtor's counsel, Wayne OBrien McCook, by use of the Court's case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on

Debtor, Jeanetta Faye Sturgeon, by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

2. The Motion relates to the real property known as 75599 Highway 16, Wagoner, Oklahoma 74467 (hereinafter "the Property") with a legal description.

The following described real property and premises situate in WAGONER County, State of Oklahoma, to-wit:

A parcel of land in the E1/2 of SE1/4 of Section 27, Township 17 North, Range 18 East of the Indian Base and Meridian, Wagoner County, State of Oklahoma, more particularly described as follows, to-wit:

Beginning at a point 40 feet West and 514 feet South of the Northeast corner of said NE1/4 of SE1/4 on the West Right-of-Way line of State Highway 16,

Thence S00 degrees 28 minutes 37 seconds E along said Right-of-Way line a distance of 220 feet;

Thence S89 degrees 40 minutes 03 seconds W a distance of 396 feet,

Thence N00 degrees 28 minutes 37 seconds W a distance of 220 feet;

Thence N89 degrees 40 minutes 03 seconds E a distance of 396 feet to the point of beginning.

Together with the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

3. The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which 3 days was added under Bankruptcy Rule 9006(f);

4. The Notice was sufficient in form and content;

5. The objection deadline expired on November 27, 2021;

6. As of November 29, 2021, neither Debtor nor Trustee, nor any other party in interest, filed an objection to the Motion;

7. The Motion is well taken and should be granted as provided herein; and

8. By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies under penalty of perjury that, on November 29, 2021, Dyane Martinez, an assistant for Elizabeth V. Friedenstien searched the data banks of the Department of Defense

Manpower Data Center ("DMDC") and found that DMDC does not possess any information indicating that Jeanetta Faye Sturgeon is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Property, of any lien priority, are hereby granted relief from the automatic stay:

a. To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against Debtor or the Property, or both, in any court of competent jurisdiction; and

b. To exercise any other right or remedy available to them under law or equity with respect to the Property.

2. Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Movant need not name Trustee as a defendant in any state court action it may pursue to foreclose liens against the Property and need not notify Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of Debtor, although Debtor can be named as a defendant in litigation to obtain an *in rem* judgment or to repossess the Property in accordance with applicable non-bankruptcy law.

4. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

5. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

6. Movant is further granted relief from the stay to engage in loan modification discussions or negotiations or other settlement discussions with Debtor and to enter into a loan modification with Debtor.

XXX END OF ORDER XXX

Submitted by:

/s/ Elizabeth V. Friedenstein

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